

FROM: Bozeman Trail Ortho TO: 10009470104 07/23/2012 14:24:00 #889 P 007/011

IN THE DISTRICT COURT OF SCOTTS BLUFF COUNTY, NEBRASKA

JERRY GARDNER,

Plaintiff,

vs.

COURTNEY R. FARRINGTON, KARL
FARRINGTON, PROFESSIONAL
COMPUTER SERVICE, and DAKOTA
TRUCK UNDERWRITERS,

Defendants.

Case No. CI 12-5734

COMPLAINT

TO THE HONORABLE COURT and JURY:

COMES NOW Jerry Gardner (hereinafter "Plaintiff"), and for cause of action against the above-named Defendants would respectfully show unto the Court and Jury the following:

GENERAL ALLEGATIONS

1. Alleges that the Plaintiff was at all times pertinent hereto a resident and inhabitant of Scotts Bluff County, State of Nebraska.
2. Alleges that the collision herein referred to occurred on 14th Avenue, 670 feet South from the intersection with E. 27th Street, Scottsbluff, Scotts Bluff County, State of Nebraska.
3. Alleges that Courtney R. Farrington (hereinafter "DRIVER") was at all times pertinent hereto a resident and inhabitant of Scotts Bluff County, State of Nebraska and was the driver on January 11, 2011 of a 2010 Dodge Ram pickup (hereinafter "VEHICLE #1").

RECEIVED
7/18/12
A. J. J.

FROM: Bozeman Trail Ortho TO: 18669470184 07/23/2012 14:24:22 #663 P.008/011

4. Alleges that Karl Farrington (hereinafter "OWNER") was at all times pertinent hereto the owner of the 2010 Dodge Ram pickup which was being driven with his permission by DRIVER on January 11, 2011.
5. Alleges that Plaintiff was the driver on January 11, 2011 of a 2008 Dodge CXT (hereinafter "VEHICLE #2").
6. Alleges that Professional Computer Service (hereinafter "PCS") was at all times pertinent hereto the employer of the Plaintiff on the date, time and place of this collision and are only included in this action in that capacity and to preserve their claim to subrogation under *Neb. Rev. Stat. §48-118*.
7. Alleges that Dakota Truck Underwriters (hereinafter "CARRIER") was at all times pertinent hereto the workers' compensation carrier for PCS and are only included in this action in that capacity and to preserve their claim to subrogation under *Neb. Rev. Stat. §48-118*.

CAUSE(S) OF ACTION

8. Plaintiff brings this suit to recover for the personal injuries he sustained together with past, present and future medical bills, past, present and future disability or loss of earning capacity, and for all general damages sustained by the Plaintiff resulting from the collision which occurred on January 11, 2011, at approximately 12:00p.m., on 14th Avenue, 670 feet South from the intersection with E. 27th Street, Scottsbluff, all within Scotts Bluff County, State of Nebraska, which collision was solely and proximately caused by the negligence of DRIVER in her operation of VEHICLE #1.
9. Alleges that at approximately 12:00p.m. on January 11, 2011, the Plaintiff was stopped in VEHICLE #2 on 14th Avenue in a lawful manner, with his turn signal

FROM: Bozeman Trail Ortho TO: 18669470184 07/23/2012 14:24:38 #883 P.000/011

engaged, waiting for traffic to clear to make a left-hand turn, when Defendant, operating VEHICLE #1 also in a southerly direction on 14th Avenue, violently struck the rear of VEHICLE #2 in a manner which was of such violence and with such sufficient force to damage VEHICLE #2 and cause immediate, proximate, serious bodily injury to the Plaintiff together with resultant damage to VEHICLE #2.

10. At the date, time and place on the occasion in question, DRIVER was negligent in numerous acts and omissions, including, but not limited to, one(1) or more of the following, which negligence and wrongful acts were the sole proximate cause of the collision in question:

- a. Failure to maintain proper lookout;
- b. Failure to keep her VEHICLE under reasonable and proper control;
- c. Failure to timely apply her brakes;
- d. Failure to use the VEHICLE'S horn or lights to warn the other driver;
- e. Failure to stop her VEHICLE before striking the Plaintiff;
- f. Improperly approached Plaintiff's VEHICLE; and/or
- g. Failure to take evasive action.

11. As a result of the collision above described, the Plaintiff suffered severe personal injuries, including head and neck injury, whiplash, back pain and discomfort, bruises, contusions, abrasions, pain and suffering, fright, together with pain in various other parts of his body. The collision also aggravated Plaintiff's preexisting medical conditions concerning his back. Some of the injuries are, with reasonable probability, permanent in nature given his condition or condition he was under treatment for.

FROM: Bozeman Trail Ortho TO: 18660470184 07/23/2012 14:24:54 #883 P 010/011

12. As a result of the collision above described, the Plaintiff has suffered great physical pain, suffering and mental anguish, and with reasonable probability, such pain and suffering will continue to be suffered into the future.
13. As a result of the injuries described above, the Plaintiff has incurred medical expenses, proximately resulting from the above collision, in the approximate sum of \$72,445.38 and, in reasonable probability, will continue to incur further medical expenses into the future by reason of the nature and severity of the Plaintiff's injuries and resultant surgery(ies).
14. As a result of the injuries described above, the Plaintiff has lost wages, proximately resulting from the above collision caused by the Defendant, in the approximate sum of not less than \$10,000.00 by reason of the nature and severity of the Plaintiff's injuries and Plaintiff has suffered a permanent future loss of earning capacity and power and shall be permanently disabled, in whole or in part.
15. Alleges that PLAINTIFF has also suffered the loss of his vehicle valued at approximately \$15,000.00± as a direct and proximate result of the negligence of DRIVER.

WHEREFORE, Plaintiff prays for judgment against the Defendant, as the evidence shall be proven, in the approximate sum of \$97,445.38 in special damages and such general damages as in such amount as shall be established at trial to have been incurred to date of Trial, plus such general damages as shall be established at Trial into the future, all in accordance with the law; and Plaintiff prays that the Court allow him costs and for such other, further and different relief as is just and lawful.

FROM: Bozeman Trail Ortho TO: 18868470134 07/23/2012 14:25:11 #683 P 011/011

STATE OF NEBRASKA)
) SS.
COUNTY OF SCOTTS BLUFF)

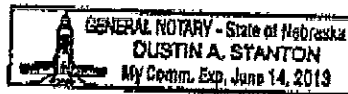

Jerry Gardner

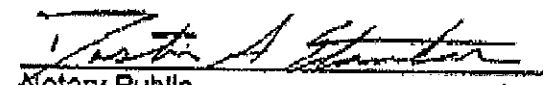
Jerry Gardner, being first duly sworn on oath, deposes and says that he has read the foregoing **COMPLAINT**, knows the contents thereof and that the facts therein stated are true as he verily believes.


Jerry Gardner

SUBSCRIBED AND SWORN TO before me this 24th day of June, 2012 by Jerry Gardner.

[seal]




Notary Public

My Commission Expires: 6/14/2013

**PLAINTIFF REQUESTS A JURY TRIAL
ON ALL JURY TRIABLE ISSUES**

PREPARED BY:

Robert M. Brenner, NSBA #10426
ROBERT M. BRENNER LAW OFFICE
1915 Tenth Street, P.O. Box 370
Gering, Nebraska 69341
Tel: (308) 436-3424/Fax: (308) 436-7262
Email: rbrenner@scottsbuff.net